

Public Notice

U.S. Army Corps of Engineers, Norfolk District

CENAO-TS-G
05-V1329

July 14, 2005

FEDERAL PUBLIC NOTICE

The District Engineer and the Virginia Department of Environmental Quality have received a joint application for Federal and State permits as described below:

APPLICANT

Rudolph Ayers
3145 Lynnhaven Drive
Virginia Beach, VA 23451

WATERWAY AND LOCATION OF THE PROPOSED WORK: The project is located within a man made canal, a tributary to Long Creek in Virginia Beach, VA.

PROPOSED WORK AND PURPOSE: The applicant proposes to construct approximately 64 linear feet of bulkhead within the same alignment of his pre-existing failed bulkhead in order to prevent further erosion. This project will include filling approximately 660 square feet of subaqueous bottom with 66 cubic yards of fill below the plain of MHW to a maximum 16 foot encroachment from MHW.

In addition to the required Department of the Army permit, the applicant must obtain a Virginia Water Protection Permit/401 certification from the Virginia Department of Environmental Quality assuring that applicable laws and regulations pertaining to water quality are not violated and a permit from the WHAT Wetlands Board. Project drawings are attached.

AUTHORITY: Permits are required pursuant to Section 10 of the Rivers and Harbors Act of 1899 (33 U.S.C. 403), Sections 401 and 404 of the Clean Water Act (Public Law 95-217) and Title 62.1 of the Code of Virginia.

FEDERAL EVALUATION OF APPLICATION: The decision whether to issue a permit will be based on an evaluation of the probable impact including cumulative impacts of the proposed activity on the public interest. The decision will reflect the national concern for both protection and utilization of important resources. The benefits which reasonably may be expected from the proposal must be balanced against its reasonably foreseeable detriments. All of the proposal's relevant factors will be considered, including conservation, economics, aesthetics, general environmental concerns, wetlands, cultural values, fish and wildlife values, flood hazards, flood plain values, land use classification, navigation, shoreline erosion and accretion, recreation, water supply and conservation, water quality, energy needs, safety, food and fiber production, mineral needs, consideration of property ownership and, in general, the needs and welfare of the people. The Environmental Protection Agency's "Guidelines for Specification of Disposal Sites for Dredged or Fill Material" will also be applied (Section 404(b)(1) of the Clean Water Act).

The Corps of Engineers is soliciting comments from the public; Federal, state, and local agencies

and officials; Indian Tribes; and other interested parties in order to consider and evaluate the impacts of this proposed activity. Any comments received will be considered by the Corps of Engineers to determine whether to issue, modify, condition or deny a permit for this proposal. To make this decision, comments are used to assess impacts on endangered species, historic properties, water quality, general environmental effects, and the other public interest factors listed above. Comments are used in the preparation of an Environmental Assessment and/or an Environmental Impact Statement pursuant to the National Environmental Policy Act. Comments are also used to determine the need for a public hearing and to determine the overall public interest of the proposed activity. Anyone may request a public hearing to consider this permit application by writing to the District Engineer within 30 days of the date of this notice, stating specific reasons for holding the public hearing. The District Engineer will then decide if a hearing should be held.

Preliminary review indicates that: (1) no environmental impact statement will be required; (2) no species of fish, wildlife, or plant (or their critical habitat) listed as endangered or threatened under the Endangered Species Act of 1973 (PL 93-205) will be affected; and (3) no known properties eligible for inclusion or included in the National Register of Historic Places are in or near the permit area, or would likely be affected by the proposal. Additional information might change any of these findings. For compliance with the Coastal Zone Management Act of 1972, as amended, the applicant must certify that federally licensed or permitted activities affecting Virginia's coastal zone (Tidewater) will be conducted in a manner consistent with the Virginia Coastal Resources Management Program (VCP). For more information or to obtain a list of the enforceable programs of the VCP, contact the Department of Environmental Quality, Office of Environmental Impact Review at (804) 698-4330 or e-mail: elirons@deq.virginia.gov.

The Magnuson-Stevens Fishery Conservation and Management Act, as amended by the Sustainable Fisheries Act of 1996 (Public Law 104-267), requires all Federal agencies to consult with the National Marine Fisheries Service on all actions, or proposed actions, permitted, funded, or undertaken by the agency, that may adversely affect Essential Fish Habitat (EFH). Tributaries of Long Creek contain Essential Fish Habitat (EFH) for the eggs, larvae, juveniles, and adult life stages of 16 species including Red Hake, Windowpane Flounder, Atlantic Sea Herring, Bluefish, Atlantic Butterfish, Summer Flounder, Scup, Black Sea Bass, King Mackerel, Spanish Mackerel, Cobia, Red Drum, Sand Tiger Shark, Dusky Shark, and Sandbar Shark. The habitat which this project would affect consists of shallow water. The proposed project is described in Proposed Work and Purpose, above. Our assessment of the project leads us to a preliminary determination that it will not have a substantial adverse effect on EFH and therefore expanded EFH consultation is not required. Based on comments from the National Marine Fisheries Service in response to this public notice, further EFH consultation may be necessary.

COMMENT PERIOD: Comments on this project should be made in writing, addressed to the Norfolk District, Corps of Engineers (ATTN: CENAO-TS-G), 803 Front Street, Norfolk, Virginia 23510-1096, and should be received by the close of business on MONTH & DAY, 2002.

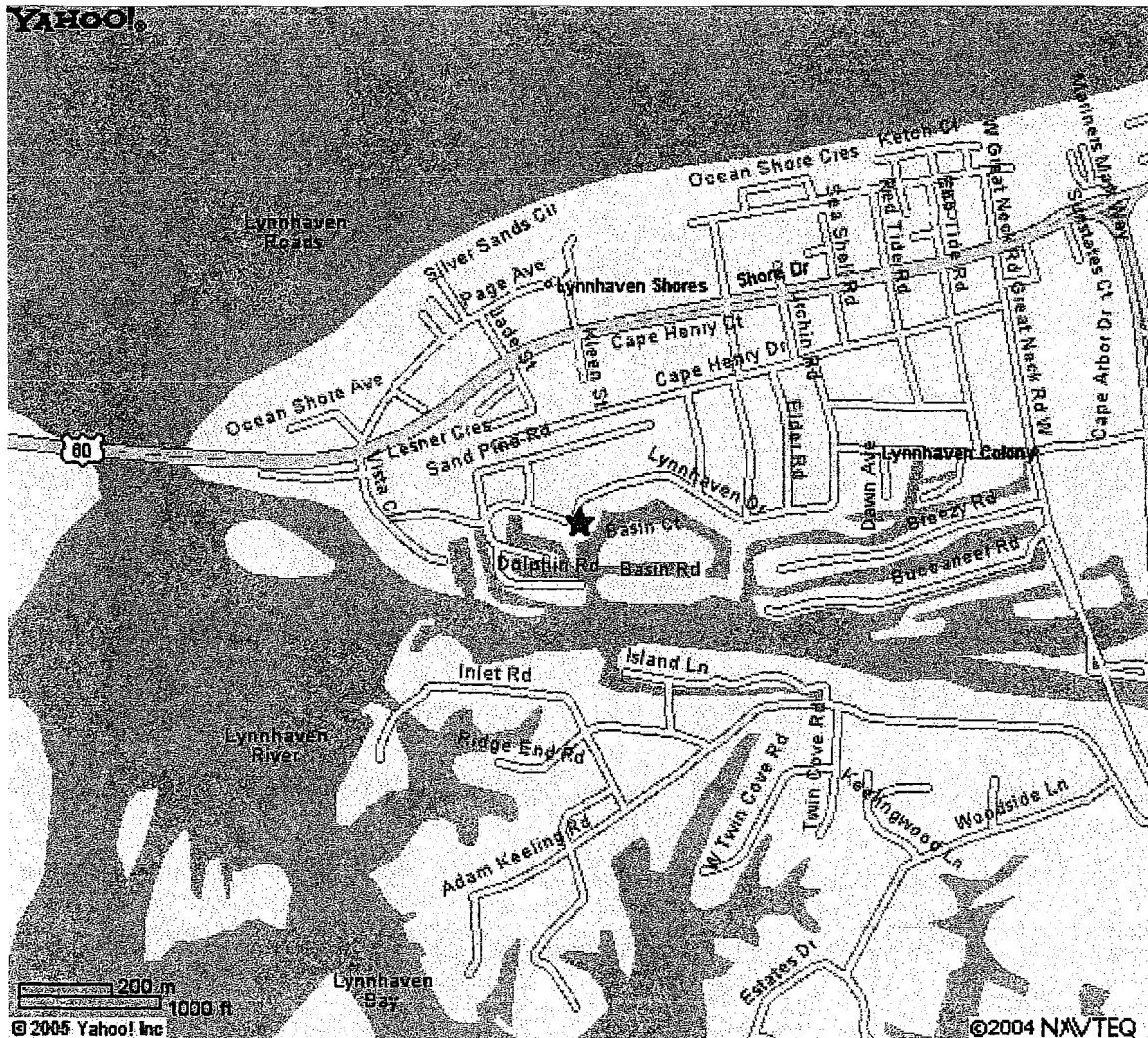
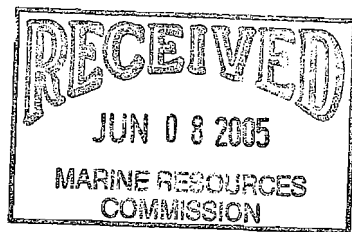
If you have any questions about this project or the permit process, please call:

Brian Denson 757-201-7792

FOR THE DISTRICT ENGINEER:

Lynette R. Rhodes
Chief, Southern Virginia
Regulatory Section

Attachment: Drawings



LOCATION MAP

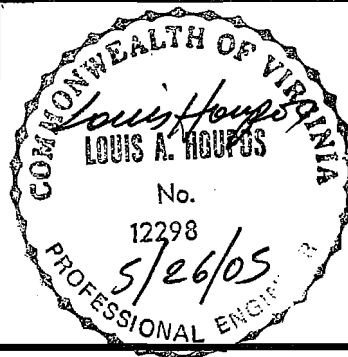
NOT TO SCALE

PROJECT PURPOSE: CONSTRUCT BULKHEAD FOR BANK STABILIZATION

ADJACENT PROPERTY OWNERS:

- 1) HORACE HOOPER
- 2) DARRELL DUGGAN

MLW=0.0'



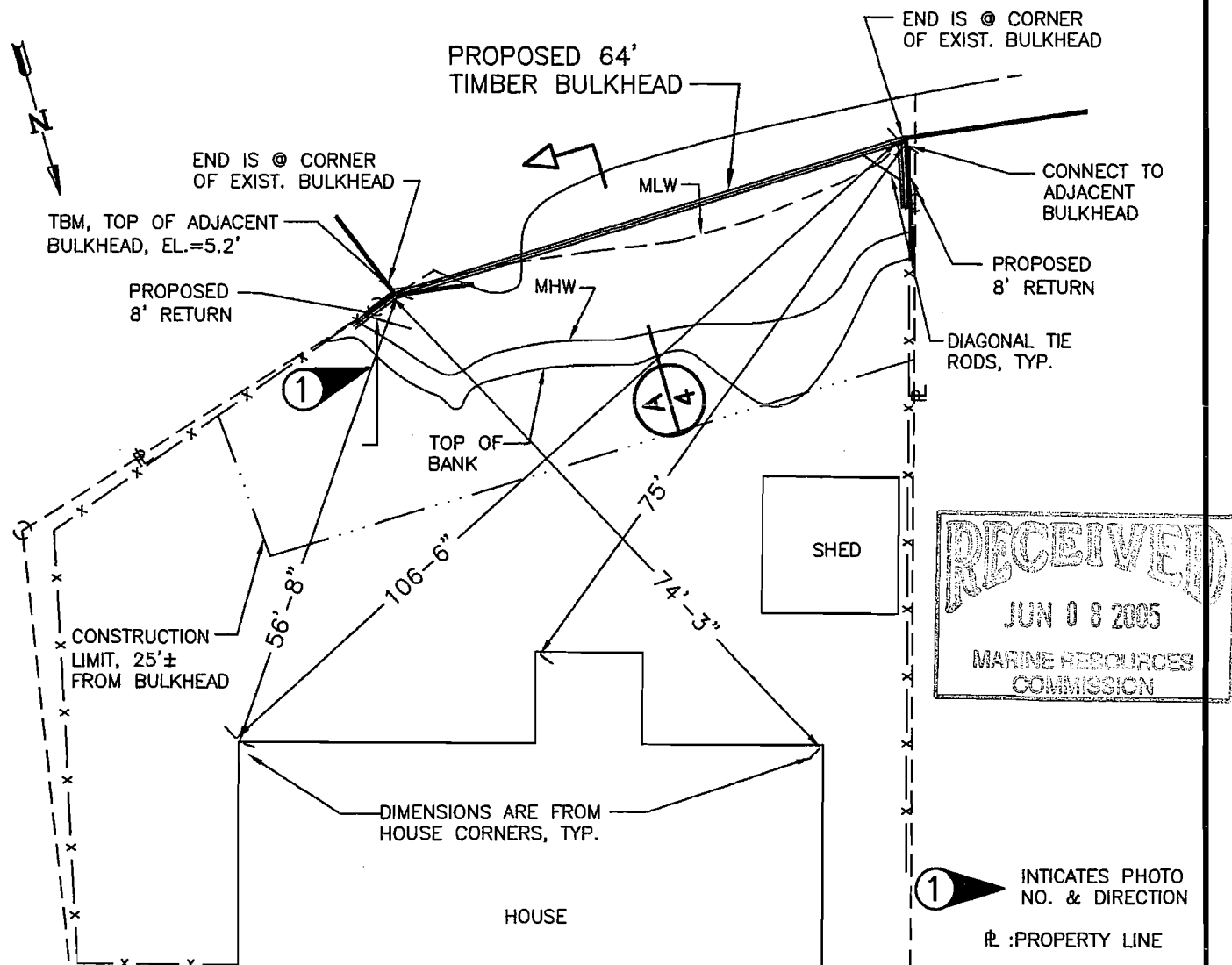
PROPOSED BULKHEAD IN
A CANAL TO LONG CREEK

PROJECT LOCATION:
3145 LYNNHAVEN DRIVE
VA BEACH, VA 23451

APPLICANT:
RUDOLPH AYERS
3145 LYNNHAVEN DRIVE
VA BEACH, VA 23451

DATE: 5/26/05

SHEET 1 OF 5

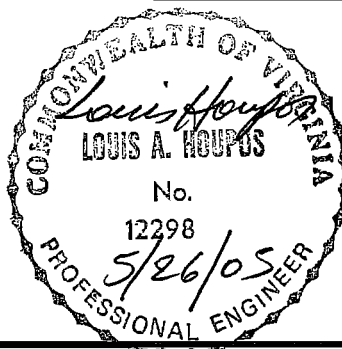


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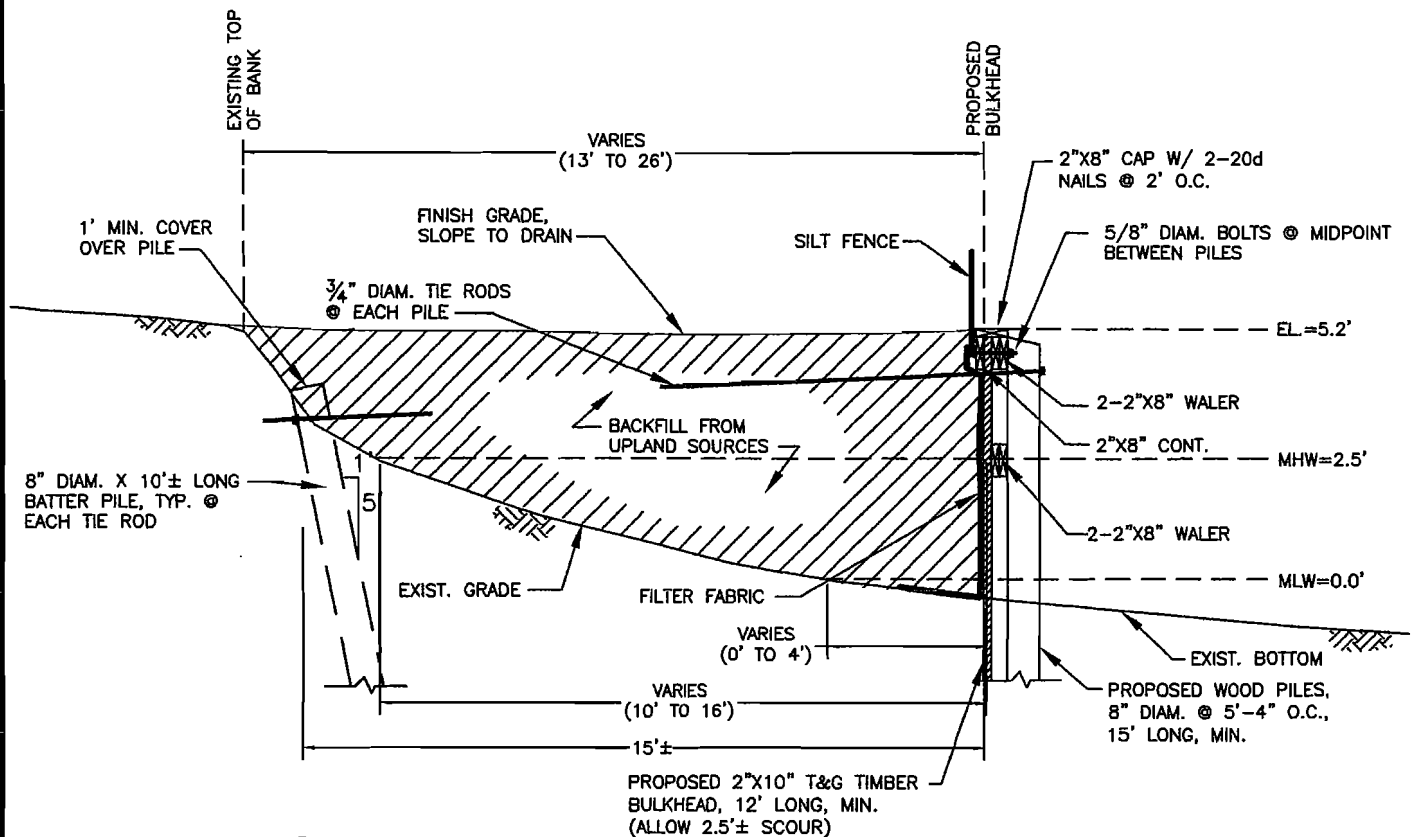
SHEET 3 OF 5

1. ALL WOOD (PILING & FRAMING) TO BE TREATED (2.25 PCF, CCA), DECKING (0.4PCF)

2. ALL HARDWARE TO BE HOT DIP GALVANIZED.
3. KEEP DISTURBANCE OF GRASSED AREAS TO A MINIMUM. ACCESS THE PROJECT SITE AS SHOWN ON SHEET 2.
4. SEED ALL DISTURBED GROUND SURFACES.
5. INSTALL 36" HIGH SILT FENCE SEAWARD OF ALL DISTURBED AREAS AT CONCLUSION OF EACH WORK DAY. EMBED 4" HORIZONTALLY AND 4" VERTICALLY AND PROPERLY MAINTAIN.

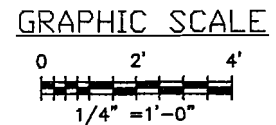
RECEIVED
JUN 08 2005
MARINE RESOURCES
COMMISSION

NOTE: TBM EL.=5.2', CORNER
OF ADJACENT BULKHEAD



PROPOSED BULKHEAD SECTION

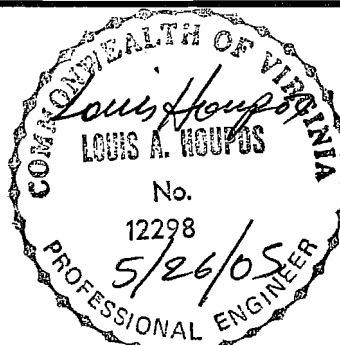
SCALE: 1/4"=1'



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SHEET 4 OF 5

MLW=0.0'